

ASSEMBLY BILL NO. 168—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE ADVISORY COMMISSION ON THE
ADMINISTRATION OF JUSTICE)

FEBRUARY 13, 2009

Referred to Committee on Judiciary

SUMMARY—Revises sentencing provisions relating to certain convicted persons who provide substantial assistance in the investigation or prosecution of other offenses. (BDR 40-653)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in **bolded italics** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to controlled substances; revising sentencing provisions relating to certain convicted persons who provide substantial assistance in the investigation or prosecution of other offenses; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 This bill provides that a court may reduce or suspend the sentence of a person
2 convicted of trafficking in a controlled substance if the court finds that the person
3 rendered substantial assistance in the investigation or prosecution of any offense.
4 (NRS 453.3405) Additionally, this bill, which is modeled after the provisions
5 contained in the Federal Sentencing Guidelines, provides that any reduction or
6 suspension of a sentence must be for specified reasons stated by the court. (18
7 U.S.C.S. Appx § 5K1.1)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 453.3405 is hereby amended to read as
2 follows:
3 453.3405 1. Except as **otherwise** provided in subsection 2,
4 the adjudication of guilt and imposition of sentence of a person



1 found guilty of trafficking in a controlled substance in violation of
2 NRS 453.3385, 453.339 or 453.3395 must not be suspended and
3 the person is not eligible for parole until he has actually served the
4 mandatory minimum term of imprisonment prescribed by the
5 section under which he was convicted.

6 2. The ~~judge,~~ **court**, upon an appropriate motion, may reduce
7 or suspend the sentence of any person convicted of violating any of
8 the provisions of NRS 453.3385, 453.339 or 453.3395 if ~~he~~ **the**
9 **court** finds that the convicted person rendered substantial assistance
10 in the ~~identification, arrest or conviction of any of his accomplices,~~
11 ~~accessories, coconspirators or principals or~~ **investigation or**
12 **prosecution** of any ~~other person involved in trafficking in a~~
13 ~~controlled substance in violation of NRS 453.3385, 453.339 or~~
14 ~~453.3395.~~ **offense.** The arresting agency must be given an
15 opportunity to be heard before the motion is granted. Upon good
16 cause shown, the motion may be heard in camera.

17 3. **Any appropriate reduction or suspension of a sentence**
18 **pursuant to subsection 2 must be determined by the court, for**
19 **reasons stated by the court that may include, without limitation,**
20 **consideration of the following:**

21 (a) **The court's evaluation of the significance and usefulness**
22 **of the convicted person's assistance, taking into consideration the**
23 **prosecuting attorney's evaluation of the assistance rendered;**

24 (b) **The truthfulness, completeness and reliability of any**
25 **information or testimony provided by the convicted person;**

26 (c) **The nature and extent of the convicted person's assistance;**

27 (d) **Any injury suffered or any danger or risk of injury to the**
28 **convicted person or his family resulting from his assistance; and**

29 (e) **The timeliness of the convicted person's assistance.**

30 **Sec. 2.** The amendatory provisions of this act apply to any
31 convicted person who is sentenced on or after the effective date of
32 this act.

33 **Sec. 3.** This act becomes effective upon passage and approval.

